



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-090, C-570-091]

Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Notice of Covered Merchandise Referral

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Pursuant to the Enforce and Protect Act of 2015 (EAPA), the Department of Commerce (Commerce) received a covered merchandise referral from U.S. Customs and Border Protection (CBP) in connection with a CBP EAPA investigation concerning the antidumping duty (AD) and countervailing duty (CVD) orders on certain steel wheels 12 to 16.5 inches in diameter (certain steel wheels) from the People's Republic of China (China). In accordance with EAPA, Commerce intends to determine whether the merchandise subject to the referral is covered by the scope of the orders and promptly transmit its determination to CBP. Commerce is providing notice of the referral and inviting participation from interested parties.

DATES: Applicable (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Brendan Quinn or Charles Doss, AD/CVD Operations Office III, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5848 or (202) 482-4474, respectively

SUPPLEMENTARY INFORMATION:

Background

On February 24, 2016, the Trade Facilitation and Trade Enforcement Act of 2015 was signed into law, which contains Title IV-Prevention of Evasion of Antidumping and Countervailing Duty Orders, commonly referred to as the Enforce and Protect Act of 2015 or

EAPA.<sup>1</sup> Effective August 22, 2016, section 421 of EAPA added section 517 to the Tariff Act of 1930, as amended (the Act), which establishes a formal process for CBP to investigate allegations of the evasion of AD and CVD orders. Section 517(b)(4)(A) of the Act provides a procedure whereby if, during the course of an EAPA investigation, CBP is unable to determine whether the merchandise at issue is covered merchandise within the meaning of section 517(a)(3) of the Act, it shall refer the matter to Commerce to make such a determination. Section 517(a)(3) of the Act defines covered merchandise as merchandise that is subject to an AD order issued under section 736 of the Act or a CVD order issued under section 706 of the Act. Section 517(b)(4)(B) of the Act states that Commerce, after receiving a covered merchandise referral from CBP, shall determine whether the merchandise is covered merchandise and promptly transmit its determination to CBP. The Act does not establish a deadline within which Commerce must issue its determination.

On December 17, 2020, Commerce received a covered merchandise referral from CBP regarding CBP EAPA Investigation No. 7459,<sup>2</sup> which concerns the AD and CVD orders on certain steel wheels from China.<sup>3</sup> Specifically, CBP has requested that Commerce issue a determination as to whether certain types of steel trailer wheels produced in Thailand from inputs sourced from China (*i.e.*, either the rim or disc component is sourced from China and the corresponding rim or disc component is produced in Thailand, which may or may not involve using inputs sourced from China), as identified in a scope ruling request previously submitted to

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<sup>1</sup> Title IV – Prevention of Evasion of Antidumping and Countervailing Duty Orders, Pub. L. 114-125, 130 Stat. 122, 155 (February 24, 2016).

<sup>2</sup> See CBP's Letter, "Scope Referral Request for Merchandise under EAPA Cons. Investigation 7459, Imported by Lionshead Specialty Tire and Wheel LLC; Tex Trail LLC; and Trailstar LLC., and concerning the Investigation of Evasion of the Antidumping and Countervailing Duty Orders (A-570-090 and C-570-091) on Steel Trailer Wheels from the People's Republic of China," dated December 17, 2020. Commerce intends to make available this document and any supporting documents on Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS) within five days of publication of this notice.

<sup>3</sup> See *Certain Steel Trailer Wheels 12 to 16.5 Inches from the People's Republic of China: Antidumping Duty and Countervailing Duty Orders*, 84 FR 45952 (September 3, 2019) (*Orders*).

Commerce by Asia Wheel Co., Ltd.,<sup>4</sup> and currently under consideration in ongoing segments of the AD and CVD proceedings, are subject to the *Orders*.

#### Notification to Interested Parties

Commerce is hereby notifying interested parties that it has received the covered merchandise referral referenced above. As the covered merchandise referral requests a determination on merchandise identified in a request for a scope ruling previously submitted to Commerce and currently under consideration, we will address the covered merchandise referral and Asia Wheel Co., Ltd.'s scope ruling request in the ongoing scope segments of the AD and CVD proceedings. Based on our determinations in the ongoing scope segments of the AD and CVD proceedings, we intend to notify CBP as to whether the merchandise subject to the referral is covered merchandise within the meaning of section 517(a)(3) of the Act.

Commerce intends to provide interested parties with the opportunity to participate in these segments of the proceedings, including through the submission of comments, and, if appropriate, new factual information and verification. Specifically, Commerce will notify parties on the segment-specific service list for these segments of the proceedings of a schedule for comments. In addition, Commerce may request factual information from any person to assist in making its determination and may verify submissions of factual information, if Commerce determines that such verification is appropriate. The current deadline for Commerce to issue final scope rulings under 19 CFR 351.225(d) or initiate scope inquiries under 19 CFR 351.225(e) in the ongoing scope segments of the AD and CVD proceedings is March 22, 2021.

Parties are also hereby notified that this is the only notice that Commerce intends to publish in the *Federal Register* concerning this covered merchandise referral. Interested parties that wish to participate in these segments of the proceedings, and receive notice of the final determinations, must submit their letters of appearance as discussed below. Further, any party

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<sup>4</sup> See Asia Wheel Co., Ltd.'s Letters, "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from the People's Republic of China: Request for Scope Ruling for Asia Wheel's Steel Trailer Wheels," dated November 10, 2020.

desiring access to business proprietary information in these segments of the proceedings must file an application for access to business proprietary information under administrative protective order (APO), as discussed below.

Finally, we note that covered merchandise referrals constitute a new type of segment of a proceeding at Commerce and, therefore, Commerce intends to develop its practice and procedures in this area as it gains more experience.

#### Scope of the *Orders*

The products covered by the *Orders* are certain on-the-road steel wheels, discs, and rims for tubeless tires with a nominal wheel diameter of 12 inches to 16.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 12 inches to 16.5 inches within the scope are generally for road and highway trailers and other towable equipment, including, inter alia, utility trailers, cargo trailers, horse trailers, boat trailers, recreational trailers, and towable mobile homes. The standard widths of certain on-the-road steel wheels are 4 inches, 4.5 inches, 5 inches, 5.5 inches, 6 inches, and 6.5 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope.

The scope includes rims and discs for certain on-the-road steel wheels, whether imported as an assembly, unassembled, or separately. The scope includes certain on-the-road steel wheels regardless of steel composition, whether cladded or not cladded, whether finished or not finished, and whether coated or uncoated. The scope also includes certain on-the-road steel wheels with discs in either a “hub-piloted” or “stud-piloted” mounting configuration, though the stud-piloted configuration is most common in the size range covered.

All on-the-road wheels sold in the United States must meet Standard 110 or 120 of the National Highway Traffic Safety Administration’s (NHTSA) Federal Motor Vehicle Safety Standards, which requires a rim marking, such as the “DOT” symbol, indicating compliance with applicable motor vehicle standards. See 49 CFR 571.110 and 571.120. The scope includes certain on-the-road steel wheels imported with or without NHTSA’s required markings.

Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem or rims imported as an assembly with a tire mounted on the rim and/or with a valve stem are included in the scope of these orders. However, if the steel wheels or rims are imported as an assembly with a tire mounted on the wheel or rim and/or with a valve stem attached, the tire and/or valve stem is not covered by the scope.

The scope includes rims, discs, and wheels that have been further processed in a third country, including, but not limited to, the painting of wheels from China and the welding and painting of rims and discs from China to form a steel wheel, or any other processing that would not otherwise remove the merchandise from the scope of the *Orders* if performed in China.

Excluded from this scope are the following:

- (1) Steel wheels for use with tube-type tires; such tires use multi piece rims, which are two-piece and three-piece assemblies and require the use of an inner tube;
- (2) aluminum wheels;
- (3) certain on-the-road steel wheels that are coated entirely in chrome. This exclusion is limited to chrome wheels coated entirely in chrome and produced through a chromium electroplating process, and does not extend to wheels that have been finished with other processes, including, but not limited to, Physical Vapor Deposition (PVD);
- (4) steel wheels that do not meet Standard 110 or 120 of the NHTSA's requirements other than the rim marking requirements found in 49 CFR 571.110S4.4.2 and 571.120S5.2;
- (5) steel wheels that meet the following specifications: steel wheels with a nominal wheel diameter ranging from 15 inches to 16.5 inches, with a rim width of 8 inches or greater, and a wheel backspacing ranging from 3.75 inches to 5.5 inches; and
- (6) steel wheels with wire spokes.

Certain on-the-road steel wheels subject to these *Orders* are properly classifiable under the following category of the Harmonized Tariff Schedule of the United States (HTSUS):

8716.90.5035 which covers the exact product covered by the scope whether entered as an assembled wheel or in components. Certain on-the-road steel wheels entered with a tire mounted on them may be entered under HTSUS 8716.90.5059 (Trailers and semi-trailers; other vehicles, not mechanically propelled, parts, wheels, other, wheels with other tires) (a category that will be broader than what is covered by the scope). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

### Filing Requirements

All submissions to Commerce must be filed electronically using ACCESS.<sup>5</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information.<sup>6</sup>

### Letters of Appearance and Administrative Protective Order

Interested parties that wish to participate in the AD and CVD segments of these proceedings and be added to the public service list for AD and CVD segments of these proceedings must file a letter of appearance in accordance with 19 CFR 351.103(d)(1), with one exception: the parties publicly identified by CBP in the covered merchandise referral (referenced above) are not required to submit a letter of appearance, and will be added to the public service list for these segments of the proceedings by Commerce.

Commerce placed an APO on the existing AD and CVD records on November 24, 2020,<sup>7</sup> and established the APO service lists for use in these segments. Commerce intends to place the

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<sup>5</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), as amended in *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>6</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

<sup>7</sup> See the Administrative Protective Orders, dated November 24, 2020.

covered merchandise referral letter on the records of these proceedings in ACCESS within five days of publication of this notice.

Interested parties must submit applications for disclosure under the APO in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to these segments of the proceeding, with one exception: APO applicants representing the parties that have been identified by CBP as an importer in the covered merchandise referral (referenced above) are exempt from the additional filing requirements for importers pursuant to 19 CFR 351.305(d).

James Maeder,  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations.  
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